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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,324	01/17/2002	Pere Ristol Debart	2136/OK111	1187

7590 09/10/2003

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805 Third Avenue  
New York, NY 10022

EXAMINER

SAUNDERS, DAVID A

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 09/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

Applicant(s)

RISTOL-DEBART et al

Examiner

SAUNDERS

Group Art Unit

1644

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-48 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-48 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1644

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims-1-47, drawn to methods of producing IgG fractions, classified in class 530, subclass 412+.
- II. Claim 48, drawn to virus inactivated IgG fraction, classified in class 530, subclass 390.1 and class 424, subclass 176.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product could be made by other processes. Since the method steps of claim 1 are all art known, though perhaps not in the same order, a substantially same composition would be obtained by any of a number of other purification/viral inactivation schemes for IgG. Thus, even if the method of Group I were found to be patentable, it is considered that there would be a substantial examination burden for consideration of patentability of the composition of Group II – e.g. consideration of numerous declarations with comparative data of instant and prior art compositions.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

Art Unit: 1644

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A Saunders, PhD whose telephone number is 703-308-3976. The examiner can normally be reached on Mon.-Thu., 8:00 am-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 703-308-3973. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

DAS 9/10/03

*David A Saunders*  
DAVID SAUNDERS  
PRIMARY EXAMINER  
ART UNIT ~~182~~ 1644